

Application No. 10/738,555
Amendment dated June 23, 2008
Reply to Office Action of May 1, 2008

REMARKS/ARGUMENTS

Applicant has carefully reviewed and considered the Office Action mailed on May 1, 2008, and the references cited therewith.

Claims 1-2, 4-6, 14, 16-17, 20, and 21 are amended, claims 7, 13, 15, 22-24, and 28 were previously canceled, and no claims are added; as a result, claims 1-6, 8-12, 14, 16-21, and 25-27 are now pending in this application.

Drawings

The drawings were objected to as failing to comply with 37 CFR 1.84(p)(5). Applicant has amended the specification to remove mention of descriptor 114. As such, Applicant respectfully submits the drawings are in compliance with 37 CFR 1.84(p)(5). Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection to the drawings.

Claim Objections

Claims 6, 14, and 17 were objected to because of informalities. Applicant has amended claims 1, 14, and 17 with respect to these informalities and respectfully requests reconsideration and withdrawal of the objections to those claims.

§ 112 Rejection of the Claims

Claims 2-6, 8-12, and 16-21 were rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicant has amended the appropriate claims of claims 2-6, 8-12, and 16-21 to more clearly recite subject matter contained therein. Applicant respectfully requests reconsideration and withdrawal of the § 112 rejection of claims 2-6, 8-12, and 16-21.

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§103 Rejection of the Claims

Claims 1-6, 8-12, 14, 16-21, and 25-27 were rejected under 35 USC § 103(a) as being unpatentable over Chishti et al. (U.S. Patent No. 5,975,893). Applicant traverses the rejection as follows.

With respect to independent claim 1, the Examiner cites column 8, lines 50-67 of Chishti as teaching “isolating the first tooth at a rest position, isolating the first tooth by relieving the first tooth of any applied force...” (Office Action, Page 4). The cited portion of Chishti states in part:

Often, only certain one(s) of the teeth will be repositioned while others of the teeth will provide a base or anchor region for holding the repositioning appliance in place as it applies the resilient repositioning force against the tooth or teeth to be repositioned.

The Examiner also cites column 12, lines 35-44 of Chishti, as teaching “maintaining a space between the appliance and particular regions of the teeth...inherently relieving the force applied to the first tooth.” (Page 4). However, the portions of Chishti cited by the Examiner teach the use of “wax patches” with positive molds “to provide a receptacle or aperture intended to accommodate an anchor which is to be placed on a tooth in order to permit the tooth to be manipulated in a manner that requires the anchor, e.g. lifted relative to the jaw.” (Column 12, lines 44-48).

The teeth providing an anchor or base as discussed in Chishti would appear to rely on contact and application of force in order to anchor or provide a base for the other teeth being moved. Additionally, the above language appears to teach that regions of a tooth may be spaced from the appliance, but the reference does not appear to teach that a tooth is isolated by creating space around the tooth, such that no undesirable contact is made or by relieving the at least one first tooth of any applied force.

Further, the reference also does not appear to teach moving a first tooth, moving a second tooth while isolating the first tooth at a rest position, and isolating

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the first tooth by relieving the first tooth of any applied force. In contrast,

Applicant's independent claim 1 recites in part:

moving at least one first tooth; and
moving at least one second tooth while isolating the at least one first tooth at a rest position, isolating the at least one first tooth by relieving the at least one first tooth of any applied force, wherein relieving the force applied to the at least one first tooth is accomplished by creating space around the tooth, such that no undesirable contact is made.

Applicant's independent claim 16 recites in part:

means for moving a first tooth; and
means for isolating the first tooth at a rest position by relieving the force applied to it, while moving at least one second tooth, wherein relieving the force applied to the first tooth is accomplished by creating space around the tooth such that no undesirable contact is made.

Also, Applicant's independent claim 21 recites in part:

means for modeling an isolating of the first tooth at a rest position while moving the second tooth, the isolating of the first tooth by relieving the tooth of any applied force, wherein relieving the force applied to the first tooth is accomplished by creating space around the tooth such that no undesirable contact is made; and
a dental appliance fabrication machine coupled to the processor for generating the appliances in accordance with the modeling of isolating the first tooth and moving the second tooth.

As such, the Chishti reference does not teach or suggest each and every element provided in Applicant's independent claims 1, 16, and 21, as amended. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 103 rejection of claims 1, 16, and 21, as well as those claims which depend therefrom.

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CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's below listed attorney at (612) 236-0121 to facilitate prosecution of this matter.

CERTIFICATE UNDER 37 C.F.R. §1.8: The undersigned hereby certifies that this correspondence is being transmitted to the United States Patent Office facsimile number (571) 273-8300 on June 24, 2008

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Date: 6/23/08